

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PATRIZIA SANCHEZ, *individually and
as Guardian ad Litem of J.G.1 and J.G.2,
minors,*

Plaintiff,

v.

KIM JOHNSON, *et al.*,

Defendants.

Case No. 1:22-cv-01091-JLT-EPG

ORDER RE: NOTICE OF VOLUNTARY
DISMISSAL WITHOUT PREJUDICE

(ECF No. 12)

This matter is before the Court on Plaintiffs' notice of voluntary dismissal (ECF No. 12), without prejudice, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i), as Defendants have not filed an answer or a motion for summary judgment.¹ In light of the voluntary dismissal, this action has been terminated, Fed. R. Civ. P. 41(a)(1)(A)(i), and has been dismissed without prejudice. *See Wilson v. City of San Jose*, 111 F.3d 688, 692 (9th Cir. 1997).

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¹ The Court notes that Defendants have filed a motion to dismiss (ECF No. 9); however, Plaintiff still has the right to dismiss this case. *Concha v. London*, 62 F.3d 1493, 1506 (9th Cir. 1995) ("Under Rule 41(a)(1), a plaintiff has an absolute right voluntarily to dismiss his action prior to service by the defendant of an answer or a motion for summary judgment. Even if the defendant has filed a motion to dismiss, the plaintiff may terminate his action voluntarily by filing a notice of dismissal under Rule 41(a)(1).") (internal citations omitted).

1 Accordingly, the Clerk of Court is respectfully directed to close the case.

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3 IT IS SO ORDERED.

4 Dated: November 8, 2022

/s/ Eric P. Groj
5 UNITED STATES MAGISTRATE JUDGE